



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,165	07/02/2001	Peter Daute	H3722PCT/US	3060
23657	7590	11/14/2003	EXAMINER	
COGNIS CORPORATION			SHOSHO, CALLIE E	
PATENT DEPARTMENT				
300 BROOKSIDE AVENUE			ART UNIT	
AMBLER, PA 19002			PAPER NUMBER	
			1714	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,165

Applicant(s)

DAUTE ET AL.

Examiner

Callie E. Shosho

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6, 8, 9 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 8, 9, 11, 12 and 15-25 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. All outstanding rejections except for those described below are overcome by applicants' amendment filed 8/27/03.

This office action is non-final in light of the use of a new reference against the present claims, namely, Dorfel et al. (U.S. 4,310,483).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6, 8-9, 11, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Dorfel et al. (U.S. 4,310,483).

Dorfel et al. disclose spherical granulate containing plastic additive wherein the granulate has diameter of 0.2-2 mm. There is also disclosed a method wherein the granulate is added to plastic composition (col.1, lines 45-48, col.3, lines 35-37, and col.4, lines 21-22 and 53). Although there is no explicit disclosure of the length to diameter ratio of the granulates given that it is disclosed that the granulates are spherical, it is clear that the granulates inherently possess length to diameter ratio of 1:1.

In light of the above, it is clear that Dorfel et al. anticipate the present claims.

4. Claims 6, 8-9, 11-12, 15-19, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Carduck et al. (U.S. 5,318,733).

The rejection is adequately set forth in paragraph 4 of the office action mailed 2/28/03 and is incorporated here by reference.

5. Claims 6, 8-9, 11, 15-17, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Balliello et al. (U.S. 6,423,132).

The rejection is adequately set forth in paragraph 6 of the office action mailed 2/28/03 and is incorporated here by reference.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carduck et al. (U.S. 5,318,733) in view of Reynolds (U.S. 3,741,703).

The rejection is adequately set forth in paragraph 9 of the office action mailed 2/28/03 and is incorporated here by reference.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Balliello et al. (U.S. 6,423,132) in view of Reynolds (U.S. 3,741,703).

The rejection is adequately set forth in paragraph 10 of the office action mailed 2/28/03 and is incorporated here by reference.

Response to Arguments

9. Applicants' arguments regarding Thibaut et al. (U.S. 5,597,857) have been considered but they are moot in view of the discontinuation of this reference against the present claims.

10. Applicants' arguments filed 8/27/03 have been fully considered but, with the exception of arguments relating to Thibaut et al., they are not persuasive.

Specifically, applicants argue that neither Carduck et al. nor Balliello et al. disclose granules containing at least one plastic additive wherein the granules are substantially spherical and have diameter of from 0.5-5 mm.

However, it is noted that Carduck et al. disclose granules comprising plastic additive, i.e. lubricant. Col.6, lines 43-45 disclose that the length to diameter ratio of the granules is from about 1:1 to about 3:1 which includes spherical particles, i.e. length to diameter ratio of 1:1, while col.16, lines 54-56 discloses that the granules obtained are, in fact, spherical. Further, col.6, line 41 discloses that the granules have diameter of 0.5-5 mm.

With respect to Balliello et al., it is noted Balliello et al. disclose granules comprising plastic additive, i.e. pigment. Col.4, line 67 and col.21, lines 45-46 disclose that the granules are essentially spherical while col.5, lines 4-5 disclose that the granules have diameter of 0.5-4 mm.

Further, col.15, lines 50-54 disclose that performance advantages of the invention are greater if the granules are spherical.

In light of the above, it is the examiner's position that both Carduck et al. and Balliello et al. disclose granules as presently claimed.

Allowable Subject Matter

11. Claims 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-14 would be allowable if rewritten as described above given that there is no disclosure in the "closest" prior art, namely, Dorfel et al. (U.S. 4,310,483), Carduck et al. (U.S. 5,318,733), or Balliello et al. (U.S. 6,423,132), that the granules contain plastic additive that is calcium soap, zinc soap, or mixture thereof as required in claims 13 and 14.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Callie E. Shosho whose telephone number is 703-305-0208. The examiner can normally be reached on Monday-Friday (6:30-4:00) Alternate Fridays Off.

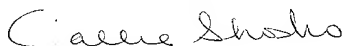
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Application Number: 09/807,165

Page 6

Art Unit: 1714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in cursive script, reading "Callie E. Shosho".

Callie E. Shosho
Primary Examiner
Art Unit 1714

CS
11/7/03